



PETITION TO AMEND THE
ZONING MAP OF HOWARD COUNTY

DPZ Office Use Only:
Case No. ZB-1122M
Date Filed: 2/15/19

1. **Zoning Request**

I (we), the undersigned, hereby petition the Zoning Board of Howard County to amend the Zoning Map of Howard County as follows: To change the current zoning of the Subject Property from the RR-DEO (Rural Residential: Density Exchange Option) zoning district to the R-SA-8 (Residential: Single Attached) zoning district. The Petitioner proposes to develop the entire property, which includes the 3.7 acre northern portion of the property, which was previously rezoned from RR-DEO to R-SA-8 with site plan documentation in ZB Case No. 1109M, to age restricted adult housing.

2. **Petitioner's Name** Meadowood-Maple Lawn, LLC

Address 1202 Shady Creek Road, Marriottsville, Maryland 21104

Phone No. (W) _____ (H) _____

Email Address _____

3. **Owner's Name** Maryland State Highway Administration

Address 7201 Corporate Center DR., MS-470, Hanover, MD 21076

Phone No. (W) _____ (H) _____

4. **Counsel for Petitioner** Sang W. Oh, Talkin & Oh, LLP

Address 5100 Dorsey Hall Drive, Ellicott City, Maryland 21042

Phone No. (410) 964-0300

Email soh@talkin-oh.com

5. **Property Identification**

Address of Subject Property 11475 S Route 216, Fulton, Maryland 20759-2205

Location of Subject Property Southwest corner of the intersection of Scaggsville Road and Old Columbia Road

Election District 5th Tax Map # 46 Block # 03 Parcel # 282

Total Acreage of Property 8.78 (includes the 3.7 acre northern portion in ZB 1109-M)

6. **Petitioner's Interest in Subject Property** Owner

(e.g. owner/joint owner/contract purchaser)

7. **Reason for the requested amendment to the Zoning Map** The Property is within the Planned Service

Area ("PSA") and Metropolitan District, making it undevelopable in RR-DEO due to the prohibition on septic within the PSA. This rezoning application is submitted to bring the Property's zoning in

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accordance with its inclusion in the PSA.

8. Statement as to the present use or uses of the subject property The Property is presently vacant.
9. Statement as to whether or not there is an allegation of mistake in the current zoning, and, if so, the nature of the mistake and the facts to support the allegation See the attached Narrative Supplement
10. Statement as to whether or not there is an allegation of a substantial change in the character of the neighborhood subsequent to the most recent comprehensive rezoning. If change(s) is alleged, the nature of the change(s) and the facts to support the allegation and a statement as to why the petitioner concludes that the reclassification sought is the proper one There is no allegation of substantial change in the character of the neighborhood.
11. Statement as to whether or not the petitioner can use the subject property in its present zoning classification and, if not, the reasons why No, the subject Property cannot be used for single-family detached homes in accordance with the cluster subdivision regulations of RR-DEO because it is within the PSA for water and sewer and these facilities are available. See the response to Question 9 in the attached Supplement for Petition to Amend Zoning Map of Howard County.
12. Statement as to whether or not such amendment will be in harmony with the General Plan for Howard County and whether such amendment will adversely affect the surrounding and vicinal properties The amendment will be in harmony with the General Plan and will not adversely affect surrounding and vicinal properties. See the answer to Question 14 in the attached Narrative Supplement.
13. State whether or not the subject property is currently served by public water, sewerage, and public roads The subject Property is within the PSA, fronts on public water, and has access to public sewerage. The Property is served by MD Route 216, a public road.
14. Any other factors which the petitioner desires the Board to consider including copies of any written reports intended to be introduced at the hearing and a written summary of verbal evidence of any expert which will be proffered at the hearing See the attached Narrative Supplement.

21. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information.

Sang W. Oh 2/15/19 [Signature] 2/15/19
Sang W. Oh Date Meadowood-Maple Lawn, LLC Date

22. **FEES**

The Petitioner agrees to pay all fees as follows:

- a. Filing fee including first hearing\$695.00*
Each additional hearing night.....\$510.00*

- b. Public Notice Poster(s):.....\$25.00

- * The Zoning Board may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the Zoning Board that the payment of the fee would work an extraordinary hardship on the petitioner. The Zoning Board may refund part of the filing fee for withdrawn petitions. The Zoning Board shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.

For DPZ office use only:

Hearing Fee \$ _____
Poster Fee \$ _____
Total \$ _____

Receipt No. _____

PLEASE CALL 410-313-2350 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

15. DRAWINGS (PLEASE TAKE NOTE)

Original Petition plus **24 copies** (if on a county road), with equal amount of required drawings, folded to approximately 8 ½" x 14" (**27 copies if a state road is involved**). Plats of the subject property, plus other such scale drawings as may be required by the Department of Planning and Zoning, must show the following:

- ☒ a. Courses and distances of the boundary lines of the subject property and the acreage
 - ☒ b. North arrow
 - ☒ c. Existing zoning of subject property and adjoining properties
 - ☒ d. Location, boundary lines, and area of any proposed reclassification of zoning
 - ☒ e. Existing structures, uses, natural features and landscaping on the subject and adjacent properties which may be relevant to the petition
 - ☒ f. Location of subject property in relation, by approximate dimension, to the nearest intersection of two public roads
 - ☒ g. Ownership of affected roads
 - ☒ h. Election district in which subject property is located
 - ☒ i. Tax map/zoning map number on which subject property is shown
 - ☒ j. Name of local community or neighborhood in which subject property is located or is near
 - ☒ k. Name and mailing address of property owner
 - ☒ l. Name and mailing address of the petitioner
 - ☒ m. Name and mailing address of petitioner's attorney, if any
 - ☒ n. Any other information as may be necessary for full and proper consideration of the petition
- 16.** If the petition includes site plan documentation, the petition shall include all information as required by Section 100.G.2. of the Zoning Regulations.
- 17.** The Petitioner agrees to furnish such additional plats, plans or other data as may be required by the Zoning Board and/or the Department of Planning and Zoning.
- 18.** The Petitioner further agrees to install and maintain Zoning Hearing Poster(s) as required in the Affidavit of Posting provided by the Department of Planning and Zoning. The Poster(s) must be posted for at least 30 days immediately prior to the Zoning Board hearing and remain posted until 15 days after the final hearing.
- 19.** The Petitioner agrees to insert and pay for the newspaper advertising costs as required by the Zoning Board Rules of Procedure. Said advertisement shall be in a format deemed adequate by the Chairperson of the Zoning Board and must be published once in at least two newspapers of general circulation in Howard County at least 30 days prior to the Zoning Board hearing. The Petitioner also agrees to submit certification of the text and publication dates of the approved advertisement prior to the Zoning Board hearing to the Administrative Assistant to the Zoning Board.
- 20.** The Petitioner certifies that no petition for the same or substantially the same proposal as herein contained for the subject property has been denied in whole or in part by the Zoning Board or has been withdrawn after the taking of evidence at a public hearing of the Zoning Board within twenty-four (24) months of the Zoning Board hearing unless so stated herein.

INSTRUCTIONS TO THE APPLICANT/PARTY OF RECORD

- As required by State Law, applicants are required to complete the AFFIDAVIT AS TO CONTRIBUTION that is attached, and if you have made a contribution as described in the Affidavit, please complete the DISCLOSURE OF CONTRIBUTION that is attached.
- If you are an applicant, Party of Record (i.e., supporter/protestant) or a family member and have made a contribution as described in the Affidavit, you must complete the DISCLOSURE OF CONTRIBUTION that is attached.
- Filed affidavits and disclosures will be available for review by the public in the office of the Administrative assistant to the Zoning Board during normal business hours.
- Additional forms may be obtained from the Administrative Assistant to the Zoning Board at (410-313-2395) or from the Department of Planning and Zoning.
- Completed form may be mailed to the Administrative Assistant to the Zoning Board at 3430 Courthouse Drive, Ellicott City, MD 21043.
- Pursuant to State Law, violations shall be reported to the Howard County Ethics Commission.

ZONING MATTER: Meadowood-Maple Lawn, LLC

AFFIDAVIT AS TO CONTRIBUTION

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

I, Meadowood-Maple Lawn, LLC, the applicant in the above zoning matter
_____ HAVE ☒ HAVE NOT

made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate or the treasurer of a political committee during the 48-month period before application in or during the pendency of the above referenced zoning matter.

I understand that any contribution made after the filing of this Affidavit and before final disposition of the application by the County Council shall be disclosed within five (5) business days of the contribution.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Printed Name: _____

Signature: _____

Date: _____

Thomas B. McKee, Managing Member
[Signature]
2/15/19

ZONING MATTER: Meadowood-Maple Lawn, LLC

DISCLOSURE OF CONTRIBUTION

As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850

This Disclosure shall be filed by an Applicant upon application or by a Party of Record within 2 weeks after entering a proceeding, if the Applicant or Party of Record or a family member, as defined in Section 15-849 of the State Government Article, has made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate of the treasurer of a political committee during the 48-month period before the application was file or during the pendency of the application.

Any person who knowingly and willfully violates Sections 15-848-15-850 of the State Government Article is subject to a fine of not more than \$5,000. If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty.

APPLICANT OR
PARTY OF RECORD: Meadowood Maple Lawn, LLC

RECIPIENTS OF CONTRIBUTIONS:

<u>Name</u>	<u>Date of Contribution</u>	<u>Amount</u>
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N/A

I understand that any contribution made after the filing of this Disclosure and before final disposition of the application by the County Council shall be disclosed with five (5) business days of the contribution.

Printed Name: Thomas F. McKee, Managing
Signature: [Signature] Member
Date: 2/15/19

ZONING MATTER: Meadowood-Maple Lawn, LLC

AFFIDAVIT AS TO ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

I, Meadowood-Maple Lawn, LLC, the applicant in the above zoning matter
_____ AM ✓ AM NOT

Currently engaging in business with an elected official as those terms are defined by Section 15-848 of the State Government Article of the Annotated Code of Maryland.

I understand that if I begin engaging in business with an elected official between the filing of the application and the disposition of the application, I am required to file an affidavit in this zoning matter at the time of engaging in business with elected official.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Printed Name: Thomas B. McKee, Managing Member
Signature: [Signature]
Date: 2/15/19

Pre-submission Community Meeting Procedures

Sec. 16.205. Procedure.

- (a) Any person owning an interest in the property affected may petition the Zoning Board for approval of a development plan, and a person owning an interest in the property affected, the Director of the Department of Planning and Zoning or members of the Zoning Board may petition the Zoning Board for piecemeal map amendment. The form and number of copies of the petition shall be as prescribed by law or by the Zoning Board's rules of procedure.
- (b) Prior to the initial submittal of a petition, the petitioner shall hold a pre-submission community meeting that provides information to the community regarding the petition and allows community residents to ask questions and discuss any issues. The meeting must be held in accordance with the following procedures:
 - (1) At least three weeks in advance, the petitioner shall send written notice regarding the date, time and location of the meeting to:
 - a. All adjoining¹ property owners as identified in the records of the Maryland Department of Assessments and Taxation, via mail;
 - b. The Department of Planning and Zoning, which will place this meeting notice on the department's web site;
 - c. The County Council; and
 - d. Any community association that represents the area of the subject property or any adjacent properties.

The property involved shall be posted with the time, date and place of the initial meeting. The sign shall include the address of Department of Planning and Zoning's website. The property shall be posted for at least three weeks immediately before the hearing. The poster shall be double-sided. At least 48 inches by 48 inches in size and the typeface shall be at least two inches in height. The Department of Planning and Zoning shall determine the number of posters required and their location and the petitioner shall bear the expense of posting. The posters shall be erected perpendicular to the road which serves as the mailing address of the subject property. The Department of Planning and Zoning shall supply the posters. The petitioner shall properly erect and maintain the posters.

- (2) The meeting shall be:
 - a. Held at a location within the community, preferably in a public or institutional building located within approximately three miles of the subject property; and
 - b. Scheduled to start between 6 p.m. and 8 p.m. on a weekday evening, or to be held between 9 a.m. and 5 p.m. on a Saturday, excluding county holidays and other holidays determined in subsection (d) of this section.
- (3) A certification of notice and posting and a summary of the issues expressed by residents at the pre-submission community meeting shall be written and transmitted by the petitioner to the Department of Planning and Zoning when the initial petition is filed for county review.
- (4) If the petitioner does not submit the petition within 1 year of the pre-submission community meeting, another pre-submission community meeting and notification in accordance with subsection (b) of this section shall be required.

IMPORTANT:

It is also advised that notice be sent to any community association registered with the County to be notified about projects in certain geographic area; and the County Council.

Please use the following web address to access the community notification list http://data.howardcountymd.gov/HOA_Register/GCommunityView_new.asp. You will be prompted to enter the three-digit sign code assigned to your development. Once your sign code has been entered, you will be provided with a list of community contacts that have

¹ Adjoining property is land which is touching or would be touching in the absence of an intervening utility or road right-of-way, other than a principal arterial highway.

requested information about your development.

SUPPLEMENT FOR PETITION TO AMEND ZONING MAP OF HOWARD COUNTY

9. *Statement as to whether or not there is an allegation of mistake in the current zoning, and, if so, the nature of the mistake and the facts to support the allegation*

The Property is within the planned service area for water and sewer ("PSA") and has been incorporated into the Metropolitan District. The Property, however, is zoned Rural Residential. The RR and RC zones have been specifically designed for agricultural preservation and low density development in the western part of the County ("Rural West"). See PlanHoward 2030 ("General Plan") at 33-34. The General Plan defines the Rural West as being "outside of the Priority Funding Area" and "not served by public water and sewer." General Plan at 74.¹ As such, properties within the PSA and Metropolitan District are not appropriately zoned Rural Residential.

As described in the General Plan, the PSA has been expanded to include Maple Lawn so as to foreclose septic use for future development in this area. See General Plan at 70. The General Plan further states that Maple Lawn and other areas were included in the PSA "because of their location at the interface of the rural residential zone and the planned service area," and that these properties "should be designed and zoned to establish a transition that is compatible with and enhances surrounding communities." *Id.*

The Property's inclusion in the PSA makes it undevelopable under existing zoning. Under RR zoning, the Property must utilize shared septic or individual septic. See Zoning Regulations Section 105.0.E. There is no bulk regulation guiding the use of sewer. The Howard County Code, however, requires that all residential properties where public sewer is available must be connected to public sewer. See Howard County Code Section 16.131. Sewer is readily available to the Property and because of its inclusion into the Metropolitan District, the Property must be sewerred. Since the Property cannot be developed with sewer under RR bulk regulations, and cannot be developed with septic under the Howard County Code, the Property cannot be developed at all. The Zoning Authority failed to take into account this regulatory taking when imposing an RR-DEO zone and, as such, this represents a mistake in zoning.

¹ The General Plan further identified septic systems as a source of nitrogen pollution and prioritized the reduction of septic proliferation through Growth Tiers. General Plan at 18 & 71; see also Sustainable Growth and Agricultural Preservation Act of 2012 (SB 236).

The Zoning Authority's failure to rezone the Property can be attributed – at least partially – to the fact that a proposal for redevelopment of the Property from its current use to another use was not presented to the Zoning Authority during the last comprehensive rezoning process. Had the Zoning Authority known at the time of the last comprehensive zoning that the owners of the Property desired a rezoning to a PSA zoning district and had plans to redevelop the Property to a use that was more harmonious and compatible with surrounding properties, the Zoning Authority would have most certainly entertained a request for rezoning.

The instant redevelopment proposal for the Property constitutes either (i) an event which, at the time of the last comprehensive rezoning, was reasonably foreseeable of fruition in the future; or (ii) an event occurring subsequent to the time of the last comprehensive zoning, which shows that the Zoning Authority's assumptions and premises at the time of the last comprehensive zoning (i.e. that there would not be a redevelopment proposal for the Property that would render the RR-DEO zoning unworkable) has proven to be invalid by the passage of time.

Additional factors may be set forth at the hearing on this matter.

12. *Statement as to whether or not such amendment will be in harmony with the General Plan for Howard County and whether such amendment will adversely affect the surrounding and vicinal properties*

The proposed rezoning of the Property from RR-DEO to R-SA-8 will be in harmony with the General Plan and will not adversely affect surrounding and vicinal properties.

As indicated in the General Plan, the proposed R-SA-8 zoning is consistent with properties in the PSA. The existing RR-DEO zoning is not. The requested R-SA-8 zoning will permit development connected to public water and sewer, which is harmonious with the General Plan.

Additionally, the R-SA-8 zoning will be in harmony and consistent with the RR-MXD-3 Maple Lawn development on the north side of MD Route 216. The General Plan explicitly contemplates that Maple Lawn properties are to provide "transitional" zoning that is compatible with surrounding properties. R-SA-8 meets this objective perfectly, particularly in light of the commercial uses to the north and Grace Community Church and single-family detached neighborhoods to the south and west. An R-SA-8 zoning of the Property will provide coherence and continuity

in land use leading into the Rural Residential communities south and west of the Property.

Additional factors may be set forth at the hearing on this matter.

14. *Any other factors which the petitioner desires the Board to consider including copies of any written reports intended to be introduced at the hearing and a written summary of verbal evidence of any expert which will be proffered at the hearing*

Previously, in ZB Case No. 1109M, the 3.7 acre northern portion of the Property was rezoned from RR-DEO to R-SA-8 with site plan documentation for 29 single family attached units. As shown on the accompanying Plan, the Petitioner proposes to develop the entire Property, including the proposed 5.08 acre portion of the Property with a conditional use approval for age-restricted adult housing with a total of 64 units. The allowable density for the Property is 105 units. 64 units, including 10 MIHU units, are being proposed.

Additional factors may be set forth at the hearing on this matter.